



Prosecuting Attorneys Association of Michigan

116 W. Ottawa Street ~ Suite 200
Lansing, Michigan 48913
(517) 334-6060 ~ FAX: 334-6351
www.michiganprosecutor.org

2012-2013 OFFICERS

President

David S. Leyton
Genesee

President-Elect

Kym L. Worthy
Wayne

Vice President

Victor A. Fitz
Cass

Secretary-Treasurer

Michael D. Wendling
St. Clair

Immediate Past President

Ronald J. Schafer
Ionia

BOARD OF DIRECTORS

Elected Directors

Karen Bahrman
Alger

Michael Carpenter
Midland

Arthur J. Cotter
Berrien

Joseph T. Hubbell
Leelanau

Byron J. Korschuh
Lapeer

Andrea S. Krause
Montcalm

William P. Nichols
Monroe

Melissa A. Powell
Iron

Mark E. Reene
Tuscola

Timothy J. Rutkowski
Huron

Eric J. Smith
Macomb

Paul R. Spaniola
Mason

Thomas J. Welch
Alcona

Matthew J. Wiese
Marquette

Active Past Presidents

Norman W. Donker
Saginaw

Stuart J. Dunning III
Ingham

William A. Forsyth
Kent

Ronald J. Frantz
Ottawa

James J. Gregart
Kalamazoo

Charles H. Koop
Antrim

Brian L. Mackie
Washtenaw

David L. Morse
Livingston

Brian A. Peppier
Chippewa

Jeffrey L. Sauter
Eaton

Charles D. Sherman
Clinton

Michael D. Thomas
Saginaw

Attorney General
William D. Schuette

N.D.A.A. Director
Michael D. Thomas

November 29, 2012

The Honorable Rick Jones
Michigan Senate
P.O. Box 30036
Lansing, MI 48909

Re: HB 5076

Dear Senator Jones,

I am writing to express my opposition to HB 5076. This bill would eliminate the current constitutional authority of a Prosecuting Attorney and other elected county officials to seek judicial review in those rare circumstances where the county board of commissioners severely underfunds the prosecutor's office.

While I appreciate the need and desire to reduce costs burdening local governments, HB 5076 is not only an inappropriate and ineffective way of attempting to cut costs, it is also unconstitutional.

It conflicts with the separation of powers doctrine that mandates the preservation of legislative, executive, and judicial branches of government as entities distinct from one another. Moreover, it subjects the independent authority of elected officials to an elected or appointed administrator who may have no interest in properly supporting the elected official's efforts to perform his or her constitutional or statutory duties.

Finally, the chief administrative officer in 79 of Michigan's 83 counties is not elected, but is appointed by the County Board of Commissioners. An employee of the Board is NEVER going to challenge an appropriation done by its employer. This practical effect of this legislation is to eliminate the ability of a County Constitutional Officer to seek redress when he or she is funded so inadequately that they cannot perform their Constitutional and Statutory responsibilities.

State wide lawsuits between elected officials and their county's board of commissioners are rare, but it is a tool that elected officers must have in order to ensure that they are funded at appropriate levels to carry out their mandated functions and responsibilities for the citizens of their counties.

Thank you for your consideration.

Sincerely,

David S. Leyton
President

cc: Senate Judiciary Committee
KC Steckelberg